

# Accessory Dwelling Unit (ADU)

## Proposed Land Development Code Amendment

### Adoption Draft LDC21-003

### March 1, 2023

## Section 3-3.2 Residential Uses

### D. Accessory Dwelling Unit (ADU)

#### 1. Intent

The intent of the Accessory Dwelling Unit regulations is to:

- a. Facilitate the creation of attainable and affordable long-term rental housing within the county;
- b. Promote the efficient use of land;
- c. Ensure the adequacy of infrastructure required to support accessory dwelling units; and,
- d. Preserve the general character of established agricultural and residential areas in unincorporated Arapahoe County.

#### 2. All ADUs are Subject to the Following Requirements:

- a. Except as otherwise provided in this Section, ADUs shall conform to the dimensional standards of the governing zoning district.
- b. An ADU shall be under the same ownership as the principal dwelling unit.
- c. An ADU shall not be sold independently of the principal dwelling on the parcel.
- d. An ADU shall not be allowed on a lot or parcel unless the principal single-family dwelling unit is being used as such.
- e. An ADU is considered an accessory use and shall not be included in any density calculations.
- f. An ADU shall meet applicable building code and fire code requirements. The application of these codes may render some properties ineligible for an ADU.
- g. An ADU shall not be used or occupied short-term which is considered to be for periods of fewer than 30 consecutive days.
- h. Where there is a conflict between the regulations of a planned unit development and the standards of this Section, the planned unit development standards shall take precedence.

#### 3. Where Permitted

- a. ADUs shall be allowed in conjunction with single-family detached dwellings in agricultural and residential zoning districts according to Table 3-2.1, Permitted Use Table, and in R-2, R-3, R-3S, R-4, R-5, and MU zoning districts.
- b. ADUs shall be allowed in planned unit developments except where listed as a prohibited use.

#### 4. Definitions

For purposes of this Section, the following terms shall be defined as follows:

- a. Attached ADU. An ADU that is located within the principal dwelling such as in a finished basement or attic, in an attached addition, or in an attached garage, but the

occupants do not live together as a single household. An Attached ADU and the principal dwelling are considered separate dwelling units for the purposes of any applicable Building Code requirements for the construction or use.

- b. Detached ADU. An ADU that is detached from the principal dwelling typically at ground level or above a detached garage or carport, or other similar structure. A Detached ADU is considered a separate dwelling unit for the purposes of any applicable Building Code requirements for the construction or use.
- c. Principal Dwelling. The primary home which is located on an individual lot or parcel designed or intended for occupancy as a residence by one family.

**5. Number**

Only one ADU is allowed on any lot or parcel.

**6. Parking**

- a. One off-street parking space shall be required for the ADU in addition to the off-street parking required for the principal dwelling unit in accordance with Table 4-1.2.1, Off-Street Parking Requirements By Land Use.
- b. The required ADU parking space may be in tandem with other required spaces.
- c. Off-street parking shall comply with the requirements of Section 4-1.2, Parking, Loading and Drive-Through.

**7. Location**

- a. An ADU shall be located on the same lot or parcel as the principal dwelling.
- b. An ADU shall not be located in a recorded easement, over any known utility, or in a location that unreasonably restricts access to such utility.
- c. On a corner lot, a Detached ADU shall be set back ten feet behind the front and side building lines of the principal dwelling.

**8. Setback**

- a. An Attached ADU shall comply with the minimum setback requirements of a Principal Structure as shown in Table 4-1.1, Agricultural and Residential District Dimensional Table; in the Minimum Area, Lot Width and Yard requirements if located within the R-2, R-3, R-3S, R-4, or R-5 zoning districts; or as required by the approved Preliminary Development Plan or planned unit development.
- b. Except as provided in paragraphs c and d below, a Detached ADU shall:
  - i. Comply with the minimum setback requirements for Accessory Structures or Uses as shown in Table 4-1.1, Agricultural and Residential District Dimensional Table; the Accessory Structure Minimum Area, Lot Width and Yard requirements if located within the R-2, R-3, R-3S, R-4, or R-5 zoning districts; or as required by the approved Preliminary Development Plan or planned unit development; and
  - ii. Be subordinate to the principal dwelling and, in addition to meeting other setback requirements, be located a minimum of ten feet behind or to the side of the principal dwelling; and
  - iii. Maintain a minimum five-foot separation from the principal dwelling.

- c. The limitations of subparagraph b.ii above shall not apply to an ADU that is located within a legally nonconforming, existing accessory structure where the ADU does not increase the existing building footprint.
- d. The limitations of subparagraph b.ii above shall not apply to an ADU that is located on a legally created or platted lot or parcel of 19 or more acres in which case said ADU shall be subject to the minimum setback requirements of a Principal Structure as shown in Table 4-1.1, Agricultural and Residential District Dimensional Table.

**9. Unit Size and Configuration**

- a. An Attached ADU shall be no more than 50 percent of the size of the principal dwelling. For purposes of this paragraph, square footage shall be measured by dividing the proposed ADU area measured in square feet by the area of the principal dwelling unit measured in square feet and converted to a percentage. For example, if a principal dwelling has a 1,000-square-foot basement, an ADU could be established in this space if the remainder of the principal dwelling is at least 1,000 square feet ( $1000 \div 2000 \times 100 = 50\%$ ).
- b. A Detached ADU shall not be less than 400 square feet.
- c. Except as provided for in paragraph 9.e below, a Detached ADU shall not exceed the smaller of:
  - i. Forty percent of the square footage of the principal dwelling; or
  - ii. Within the lot size and floor area ranges set out in Table XX, Maximum Square Footage of Detached Accessory Dwelling Units:

<b>Table xx: Maximum Square Footage of a Detached Accessory Dwelling Unit</b>	
<b>Lot Size</b>	<b>Maximum ADU Square Footage</b>
5,000 square feet (sf) and up to 6,999 sf	600 square feet (sf)
7,000 sf and up to 12,499 sf	850 sf
12,500 sf and up to 39,999 sf	1,000 sf
40,000 sf and up to 18.999 acres	1,200 sf

- d. ADUs shall be designed and configured as studio/efficiency, one-bedroom, or two-bedroom units.
- e. The limitations of paragraphs c and d above shall not apply to ADUs that are located on legally created or platted lots or parcels of 19 or more acres.
- f. For purposes of this paragraph 9, square footage calculations shall not include unenclosed porches, crawl spaces, utility areas, unfinished garages, or other similar non-habitable spaces.

**10. Lot Coverage**

In addition to the maximum unit size as provided for in paragraph 9.c above, Detached ADUs shall comply with the total maximum building coverage requirements of the applicable zoning district.

## **11. Building Height**

- a. The maximum building height of an Attached ADU shall be no greater than that which is allowed for a principal dwelling within the applicable zoning district.
- b. Except as provided for in paragraph 11.c and 11.d below, the maximum building height of a Detached ADU shall not exceed 22 feet.
- c. The limitations of paragraph 11.b above shall not apply to ADUs that are located on legally created or platted lots or parcels of 19 or more acres.
- d. The limitations of paragraph 11.b above shall not apply to ADUs located within a legally nonconforming detached structure provided that the ADU meets all other applicable requirements contained in this Section such as but not exclusive of unit size and configuration, setback, and outdoor areas.

## **12. Design**

- a. The following standards apply to all Detached ADUs and those Attached ADUs that are constructed as an addition to the principal dwelling.
  - i. An ADU shall be designed such that it is aesthetically consistent with the principal dwelling in at least four of the following:
    - (a) Roof pitch and form;
    - (b) Soffit and fascia style;
    - (c) Exterior wall cladding style and material;
    - (d) Window style, trim, and orientation;
    - (e) Exterior door style;
    - (f) Architectural features such as but not exclusive of, building recessions or projections, dormers, balconies, porches, columns, and prominent entry features; or
    - (g) Color palette.
  - ii. Windows that face a single-family detached dwelling on an adjacent property shall be designed and configured to protect the privacy of the adjacent dwelling to the extent practicable.
  - iii. If the entrance to the ADU is visible from an adjacent right-of-way it shall be clearly subordinate to the entrance of the principal dwelling.
  - iv. An ADU shall be constructed on a permanent foundation.
  - v. All exterior lighting shall comply with Section 4-1.4, Lighting.
- b. Mobile homes, campers, recreational vehicles, camper busses, shipping containers, storage containers, and other such temporary structures shall be prohibited for use as an ADU.

## **13. Outdoor Areas**

Access to outdoor space and landscaping must be provided for use by the occupants of both the ADU and the principal dwelling.

## **14. Utilities**

- a. Generally. All ADUs must comply with the design requirements of utility service providers to the principal dwelling.
- b. Water and Wastewater.

- i. Public Water and Wastewater Systems. If the principal dwelling is served by a public water or wastewater system, at the time of building permit application the owner shall provide evidence of approval from the water or wastewater district or company for both the principal dwelling and the ADU.
- ii. Private Well. If the principal dwelling is served by a private well, the owner shall provide evidence of approval from the Colorado Division of Water Resources and any applicable water district for both the principal dwelling and the ADU.
- iii. Private Wastewater System. If the principal dwelling is served by an On-Site Wastewater System (OWTS or “septic system”), the owner shall provide evidence of approval from the official health department serving Arapahoe County, for both the principal dwelling and the ADU.

### **15. Home Occupations**

- a. Home occupations as allowed under Chapter 3, Section 3-3.11 are permitted in an ADU subject to the additional following requirements:
  - i. The home occupation must be conducted entirely within the ADU;
  - ii. The home occupation shall be conducted only by the resident of the ADU and the resident may not permit employees to work from the ADU;
  - iii. There shall be no client or customer visits associated with the home occupation; and
  - iv. Sales conducted in conjunction with the home occupation shall be primarily by telephone, internet, or direct mail.

### **16. Pets**

The restriction on the number of pets allowed under this Code shall be per lot or parcel, irrespective of the number of dwelling units on the lot or parcel.

### **17. Homeowner Associations, Covenants, Conditions, and Restrictions**

It is the responsibility of the property owner of record to ensure compliance with any private homeowner association requirements, covenants, conditions, and restrictions for the ADU. The County will not independently verify such compliance.

### **18. Owner Occupancy**

- a. The property owner of record, as reflected in the Arapahoe County land title records and evidenced by voter registration, vehicle registration, or other similar means, must reside in either the principal dwelling or the ADU.
- b. The Planning Division Manager or designee may waive this requirement for temporary absences of less than one year provided that the owner has maintained the permitted use for a minimum of two years and submits proof, satisfactory to the Planning Division Manager or designee, of the temporary absence.

### **19. Deed Restriction**

- a. Before obtaining a certificate of occupancy for an ADU, the property owner of record shall record a deed restriction on the lot or parcel proposed for an ADU with the Arapahoe County Clerk and Recorder, in a form acceptable to the Director of Public

Works and Development and/or the County Attorney, that imposes the following restrictions on the lot or parcel:

- i. The ADU shall not be sold separately from the principal dwelling, nor shall the lot or parcel on which it is located be subdivided unless such subdivision is reviewed and approved in conformance with provisions of this Code;
- ii. The ADU shall be restricted to the approved size;
- iii. The ADU shall only be used in strict compliance with all requirements of this Code;
- iv. The certificate of occupancy for the ADU shall be in effect only so long as the property owner of record resides in either the principal dwelling or the ADU, subject to any temporary waiver granted pursuant to paragraph 18.b above;
- v. The deed restrictions are binding upon any successor in ownership of the property; and
- vi. The deed restrictions shall lapse upon removal of the ADU and upon written request by the property owner. The Director of Public Works and Development and/or the County Attorney shall record appropriate documentation releasing such encumbrance.

#### **20. Existing Development on Lot or Parcel**

A single-family detached dwelling must exist on the lot or parcel as a principal dwelling or be constructed concurrently with an ADU. A certificate of occupancy will only be issued for an ADU after it has been issued for the principal single-family detached dwelling.

#### **21. Process**

Compliance with these ADU regulations will be reviewed at the time of building permit application.

## **Section 7-2: Definitions**

### **Accessory Buildings**

Accessory uses and structures are not permitted unless and until the principal permitted use has been established on the property.

- A. Accessory buildings greater than 120 square feet in size and/or 10 feet in height shall observe all yard and height requirements.
- B. Except as otherwise allowed in this Code, structures constructed for accessory uses shall not be used for dwelling purposes.
- C. Except for agricultural usage only and except as allowed in Section 3-3.2D, Accessory Dwelling Unit, accessory structures shall not exceed 10 percent of the lot area or a maximum of 1,000 square feet, and a maximum building height of 15 feet.

### **Accessory Dwelling Unit (ADU)**

A secondary subordinate dwelling unit that is added to, created within or adjacent to a detached single-family dwelling unit on a lot or parcel and that includes a kitchen, bathroom, and sleeping quarters.

### Dwelling, Single-Family Detached

A dwelling unit located on an individual lot and not attached to any other dwelling unit (other than an accessory dwelling unit, if permitted).

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